

Public Participation in the Rezoning Process

1. Pre-application plan and conference
2. Meeting with adjoining property owners and neighborhood groups
3. Formal filing of rezoning application
4. Site inspection
5. Land Development and Transportation Committee (LD&T) review
6. Planning Commission public hearing
7. Legislative body action (Metro Council, 2nd, 3rd and 4th Class Cities)

1. Pre-application Plan

While many owner/developers choose to have an initial meeting with neighbors, the first step of the process is to file a pre-application plan with Planning and Design Services. The purpose of this pre-application is to allow the developer to discuss his proposal with staff and allow staff the opportunity to point out potential problems with the proposed development prior to the formal filing for rezoning. The project proposal also circulates to agencies and utilities for initial comments.

2. Meeting with Adjoining Property Owners/Neighborhood Groups

The owner/developer is required to meet with adjoining property owners and neighborhood groups prior to formal filing of the development proposal. The purpose of this meeting is to increase understanding of a case earlier in the process and to encourage dialogue between developers, area residents and the general public. Early conversations between applicants and neighbors of the site encourage consensus building. The meeting will be conducted at a time and location that is convenient for area neighbors and concerned citizens. Documentation of the meeting (including a copy of the meeting notification and a sign-in sheet) and a summary of significant issues discussed is required as part of the application process for formal filing of the rezoning.

Before the meeting, do your homework. The meeting notification letter will have provided some idea of what zoning category and/or use is being proposed. You may obtain copies of all documents in the file for your further study. Review the Land Development Code so that you know what the standards are for that zoning category. Think about the surrounding properties and current and future developments in the general area.

Then consider the following questions:

1. Does this proposal “fit” the area in terms of density and quality?
2. Are the proposed uses needed and welcomed by the neighborhood?
3. Are your roads sufficient to handle the additional traffic?
4. Is the tract subject to flooding or causing flooding downstream if developed?
5. Pretend you own the property proposed for development. What feedback from the neighbors would be useful for you?

When you attend the meeting, listen to the owner/developer’s presentation and compare it to your thoughts about the questions above. Remember that this is a very early stage; the developer should be able to give you general outlines but may not yet have definitive answers because the proposal will be reviewed by several agencies (e.g., MSD and the Highway Department) who will make their own recommendations and changes.

3. Formal filing of rezoning application

Once the pre-application review has occurred, the meeting with adjoining property owners and neighborhood groups has taken place, and the agencies (Public Works and MSD) have preliminarily approved the proposal, the owner/developer may formally file for rezoning. A case number will be assigned to the case. You should reference this number in further correspondence with the Planning Commission or staff. From this point, the procedure moves along fairly rapidly, so it is critical to review the file regularly for changes and additions. The file is available at Planning and Design Services, 444 S. 5th Street, Suite 300, during normal business hours (Monday through Friday, 8:00 a.m. until 5:00 p.m.). Once the rezoning application is filed, Metro Council members and Planning Commissioners are not allowed to discuss the matter with any interested party (including the developer, attorney, or citizens). You can send letters, petitions, and other information to the Planning and Design Services office where it will become part of the official record and copies will be provided to all Planning Commission members. Your neighborhood organization can register with Planning and Design Services to receive notice of all filings in your Metro Council District.

4. Site inspection

Planning and Design Services staff, along with some members of the Planning Commission, conduct a site inspection to assess the impact of the proposed development on the surrounding area. They evaluate the proposal in terms of its effect on roads and traffic patterns, its compatibility with the neighborhood, and its impact on natural and historical features in the area. The plan is also reviewed to determine if it is in compliance with the guidelines of the Comprehensive Plan.

5. Land Development & Transportation (LD&T) review

The Land Development & Transportation Committee (LD&T) is a committee of the Planning Commission whose function is to review filed plans for conformance with regulations, schedule public hearing dates, and make recommendations to the applicant about compliance with the Comprehensive Plan. If you generally accept the proposed rezoning but have not been able to reach agreement with the developer on details (landscaping, traffic patterns, number or placement of buildings), LD&T is the first place to make your case. The venue is informal and all interested parties simply go up to the committee table when the case number is called. The developer and Commission staff will discuss the proposal and you will then be given an opportunity to speak. It is strongly recommended that one or two people be selected to present your side of the situation. If the unresolved problem is serious enough, you may want to consider hiring a land-use attorney to speak for you at LD&T. Be sure the attorney knows what your group's budget is and exactly what you want to accomplish. LD&T has wide latitude and can simply schedule the public hearing, ask the developer to revise and resubmit the plan, require further studies, or recommend restrictions.

Any restrictions or modifications should be in the form of binding elements, which as the name implies, "bind" the developer to follow through on specific design details and restrictions if their rezoning is approved. One of the binding elements may be that you receive at least 30 days notice and an opportunity to respond if the developer wishes to amend the binding elements after the rezoning is approved. These binding elements can be deleted, changed, or added at any time in the process, so be sure they are a part of the case presented at the public hearing.

If you are totally opposed to the rezoning, you may want to make your case at LD&T, but be aware that LD&T cannot recommend for or against a rezoning and will simply schedule the case for a public hearing before the full Planning Commission, where a recommendation will be made. You can petition for more than the standard 10 minutes for opponents or an evening public hearing at the LD&T review. The requirements are:

1. Extended presentation – A one (1) hour opposition presentation requires 25 signatures from property owners living within the affected Jefferson County district. Petitions for extension of hearing time limits must be submitted within seven (7) days of the LD&T meeting at which the public hearing date is set or confirmed. (PC Policy 7.09.02)
2. 5:30 p.m. public hearing – To have a public hearing held in the evening (5:30 p.m.), requires 200 signatures from Jefferson County property owners. Petitions must be received within 15 days of the scheduled hearing. (KRS 100.214)
3. Public hearing after 6:00 p.m. in your district – To have a public hearing held in the evening in a convenient location requires 300 signatures from property owners living within the affected Metro Council district and/or adjacent council districts. Petitions must be submitted within (no less than) 15 days of the scheduled hearing date. (Lou. Metro. Am. Ord. No.100-2007)

LD&T generally meets on the second and fourth Thursday of each month in the Old Jail Building, located at 514 W. Liberty Street, at 1:00 p.m. Though cases are docketed in a particular order, there is no way to predict when your docket number may come up during the meeting. Your spokesperson should stay in the room and be prepared to stay until the end of the meeting.

6. The Public Hearing

If you and your group wish to comment on the rezoning application, the public hearing is the most important place to make your case. LD&T schedules a public hearing before the full Planning Commission. Notification of the public hearing is made in several ways: hearing notices are sent to adjoining property owners 30 days prior to the public hearing; signs are posted on the property 30 days prior to the hearing; and legal ads are placed in newspapers not less than 7 days nor more than 21 days prior to the hearing. In addition, neighborhood groups that have registered with Planning and Design Services are notified 7 days prior to the LD&T meeting. Public hearings are normally held on the first and third Thursday of each month at the Old Jail Building, 514 W. Liberty Street, at 1:00 p.m. In addition to these regular meetings, extra bi-monthly meetings of the Commission are held after normal working hours. Development proposals generating a high level of interest in the community will automatically be scheduled for one of these meetings, which occur on the third Thursday of every other month at the Old Jail Building, 514 W. Liberty Street, at 6 p.m. Routinely, the staff person assigned to the case has 5 minutes to outline the plan, the developer and supporters have 10 minutes to argue for it, and opponents have 10 minutes to argue against it. You will want to publicize the date and time of the public hearing throughout your neighborhood so that all interested parties can attend.

It is often helpful to hold a meeting in the neighborhood prior to the hearing to decide who is going to be the spokesperson, what consultants will speak, what their order will be, what subjects must be covered, and to request that letters be sent to the Commission. If you have decided to hire a land-use attorney, he or she should attend this meeting.

Before the hearing, all who wish to speak must register with the staff person usually seated outside the entrance to the hearing room. You will need the case number for your case and can obtain a complete agenda for the day from the staff person. This will give you some idea of when your case may be called. Be sure to advise the Commission staff in advance if you want to use VCR tapes or a Power Point projector for your presentation. The public hearing is a more formal format than the LD&T review, but similarly, staff will present the plan, the developer and/or attorney will present the reasons the change in zoning should be granted, and the public is given the opportunity to state agreement or disagreement, suggest alternatives and give reasons for their position. The developer is then allowed a rebuttal to your remarks.

It is critical that your comments be factual, well organized, and based on the Cornerstone 2020 Comprehensive Plan. You should have alternative suggestions in mind and be prepared to respond quickly to questions or suggestions from the Planning

Commission members. All information pertaining to this case that will be the basis for decision by the Planning Commission and the legislative bodies must come from the public hearing or be submitted prior to the public hearing, so be certain that all your points are submitted in writing at the hearing as they cannot be added later.

After all testimony is heard, the Planning Commission will go into business session and vote to recommend approval or denial to the appropriate legislative body, continue the hearing to a later date, or defer action. When a hearing is continued to a later date, the Planning Commission will accept additional testimony. When action has been deferred, the case is placed on a subsequent docket under “business session” for deliberation, and no additional testimony is allowed.

7. Legislative body action

Following the Planning Commission’s recommendation, the elected legislative body makes the decision to approve or deny the proposal. Legislative bodies with zoning authority in Jefferson County include the Metro Council, and the following 2nd, 3rd, or 4th class cities: Anchorage, Douglass Hills, Graymoor-Devondale, Hurstbourne, Indian Hills, Jeffersontown, Lyndon, Middletown, Prospect, Shively, St. Regis Park, and St. Matthews. Again, you cannot discuss the issue with your elected representative. They are legally obligated to base their decision on the public hearing transcript and Planning Commission file.

SUMMARY

The key points for citizens involved in the rezoning process are:

1. Organize your neighborhood early and well.
2. Know the steps in the process; prepare for the next step.
3. Make your needs and desires known to the developer.
4. Make a succinct, concise, organized case at LD&T and the public hearing.

Agenda Information

The Louisville Metro web site includes agendas for the Planning Commission and Land Development & Transportation Committee meetings. The web site is <http://www.louisvilleky.gov/PlanningDesign/>. These agendas are usually posted the Friday before the following week’s meeting. The Planning and Design Services page of the web site also includes the Land Development Code (zoning and subdivision regulations).